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Attorneys for Defendant, Cross-
Claimant and Third Party Plaintiff
MICHAEL FRIEL

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

RITA JETTE)	Case No. C 05-02226 PJH
)	
Plaintiff,)	STIPULATION AND ORDER TO
)	MEDIATE IN LIEU OF EARLY
vs.)	NEUTRAL EVALUATION AND
)	TO EXTEND PRE-TRIAL
GEORGE MCQUEEN; MICHAEL)	DEADLINES
FRIEL,)	
)	
Defendants.)	
_____)	
)	
AND RELATED CROSS-CLAIM AND)	
THIRD PARTY COMPLAINT.)	
_____)	

Based on the Stipulation of the evaluator and the parties through their respective
counsel and for good cause shown, the Court enters the following order:

STIPULATION

The parties to this action, through their respective counsel of record, hereby
stipulate as follows:

1 1. On June 1, 2005, Plaintiff Rita Jette filed her complaint against
2 Defendants Michael Friel (“Friel”) and George McQueen (“McQueen”). On October
3 12, 2005, Friel answered the complaint and filed a cross-claim for indemnity against
4 McQueen. Thereafter, the parties entered into a stipulation to proceed to Early Neutral
5 Evaluation (“ENE”), and at the initial case management conference (“CMC”) on
6 December 8, 2006, the Court ordered the parties to ENE to be completed within 90
7 days. On the same day, the Court also set a deadline for motions relating to pleadings
8 (January 18, 2006) and another deadline for dispositive motions (May 10, 2006), with a
9 caveat that the parties “may stipulate to changes to dates if other party is not agreeable
10 to current dates set.” The deadlines to complete ENE and to file the dispositive motion
11 shall be referred to herein as “Deadlines.” On December 27, 2005, the Court appointed
12 Pamela Phillips to be the evaluator.

13 2. The motions relating to pleadings included: a) Plaintiff’s motion for leave
14 to file first amended complaint; and b) Friel’s motion for leave to file a third party
15 complaint against new parties, Seth L. Goldstein (“Goldstein”) and Henry Katz (“Katz”)
16 (collectively “Third Party Defendants”). On March 1, 2006, the Court granted both
17 motions. The third party complaint and the first amended complaint were filed on
18 March 7, 2006.

19 3. The parties who have already appeared (Plaintiff, Friel and McQueen)
20 held at least two pre-ENE telephonic conferences (sessions with Ms. Phillips on March
21 2, 2006, and March 14, 2006) to discuss the nature of the ENE proceeding and to
22 schedule the actual conference. At the time, it was impractical to schedule a specific

1 date because both Third Party Defendants, one of whom is in Rhode Island, did not
2 appear yet and also because McQueen was incarcerated. The scheduling difficulty was
3 compounded by the limited availability of the evaluator and Plaintiff. Specifically, due
4 to Plaintiff's age (80 years old) and her Rhode Island residence, the parties wanted to
5 accommodate her so that she would have to make only one trip to California for both
6 the ENE conference and her deposition.

7 4. Given the special circumstances of the case, the parties agree that there is
8 good cause to extend the Deadlines and to convert the ENE conference to mediation
9 where all of the parties could participate to try to reach a global settlement rather than
10 proceeding to an ENE conference.

11 5. There is good cause for extending the Deadlines. All of the parties,
12 including the Third Party Defendants who have not yet appeared, are now in agreement
13 that a global mediation should be scheduled at a time when all parties can meaningfully
14 participate. Because there is no video conferencing or telephone conferencing
15 capability at the Lake County detention center, McQueen will be sending his wife as his
16 representative with the authority to settle the matter. Third Party Defendant Goldstein
17 will be representing himself and Katz at the mediation with an authority to settle on
18 behalf of Katz. Given the procedural posture of the case, the parties will need an
19 additional time to first complete mediation, then proceed to discovery and file pre-trial
20 dispositive motions, if warranted, then finally prepare for trial.

21 6. On March 23, 2006, all of the parties through their counsel participated in
22 the third telephone conference with Ms. Phillips. Based on the schedules of the parties,

1 counsel and evaluator, the earliest date available for mediation was June 14, 2006. Ms.
 2 Phillips will be in China for 3 weeks starting April 15, 2006. Counsel for Friel will be
 3 out of state for 3 weeks starting from May 1, 2006. Counsel for Plaintiff has a trial
 4 starting on May 22, 2006, which will likely last until the week of June 5, 2006. Thus,
 5 the parties agreed to proceed on June 14, 2006, in San Francisco.

6 7. In sum, the parties, through their respective counsel of record, hereby
 7 stipulate to mediate in lieu of proceeding to an ENE conference. Moreover, the parties
 8 hereby stipulate to amend the Deadlines as follows:

- 9 a) the mediation shall be completed on or before June 23, 2006;
 10 b) the parties shall conclude all lay witness depositions by the Discovery
 11 Cutoff (as defined by Local Rules of United States District Court for the Northern
 12 District of California, Rule 26-2) of August 15, 2006, and the written discovery shall be
 13 completed by the Discovery Cutoff of August 15, 2006;
 14 c) the parties shall conclude all expert witness depositions by August 31,
 15 2006; and
 16 d) the parties shall file dispositive motions on or before September 15, 2006.

17 8. Moreover, in view of the pending mediation, the parties stipulate to
 18 extend the deadline for Third Party Defendants to respond to the third party complaint
 19 to 30 days after the completion of mediation.

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EWING & ASSOCIATES

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1 7. This Stipulation may be executed by facsimile in multiple counterparts,
 2 each of which shall be deemed an original and which shall together constitute one and
 3 the same instrument.

4 Dated: March __, 2006

5 *3/3/06 Ewing & Associates*
Attorneys for George McQueen
[Signature]
 Law Offices of Seth L. Goldstein

6 By:

7 Seth L. Goldstein
 8 Attorneys for Plaintiff Rita Jette and Third
 Party Defendant Henry H. Katz

9 Dated: March __, 2006

Katzoff & Riggs

10 By:

11 Robert R. Riggs
 12 Sung E. Shim
 Attorneys for Defendant, Cross-Claimant and
 13 Third Party Plaintiff
 Michael Priel

14 Dated: March __, 2006

15 By:

16 Seth L. Goldstein
 17 In Pro Per

18 Dated: March __, 2006

19 Approved:

20 By:

21 Pamela Phillips
 22 Evaluator / Mediator

KATZOFF & RIGGS
 1001 PARK AVE., SUITE 200
 ANAHEIM, CA 92805
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STIPULATION AND ORDER TO MEDIATE IN LIEU OF EARLY NEUTRAL EVALUATION AND TO
 EXTEND PRE-TRIAL DEADLINES

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SETH GOLDSTEIN

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1 7. This Stipulation may be executed by facsimile in multiple counterparts,
2 each of which shall be deemed an original and which shall together constitute one and
3 the same instrument.

4
5 Dated: March ____, 2006

6 Law Offices of Seth L. Goldstein

7 By:

8 Seth L. Goldstein
Attorneys for Plaintiff Rita Jette and Third
Party Defendant Henry H. Katz

9 Dated: March ____, 2006

10 Katzoff & Riggs

11 By:

12 Robert R. Riggs
Sung E. Shim
Attorneys for Defendant, Cross-Claimant and
13 Third Party Plaintiff
14 Michael Friel

15 Dated: March ____, 2006

16 By:

17 Seth L. Goldstein
In Pro Per

18 Dated: March 28, 2006

19 Approved:

20 By:

21 Pamela Phillips
Pamela Phillips
Evaluator / Mediator
22 (signing only as to date and
events related to mediation)

3
STIPULATION AND ORDER TO MEDIATE IN LIEU OF EARLY NEUTRAL EVALUATION AND TO
EXTEND PRE-TRIAL DEADLINES

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KATZOFF & RIGGS
1201 PARK AVE, SUITE 300
EMERYVILLE, CA 94608
(510) 992-1999

ORDER

Pursuant to Stipulation, IT IS SO ORDERED.

Dated: April 13, 2006



KATZOFF & RIGGS
1500 PARK AVE., SUITE 300
EMERYVILLE, CA 94608
(510) 597-1990

PROOF OF SERVICE

I, the undersigned, declare that I am, and was at the time of service of the papers herein referred to, over the age of eighteen (18) years and not a party to the within action or proceeding. I am employed in the County of Alameda, State of California. My business address is 1500 Park Avenue, Suite 300, Emeryville, California 94608. I am familiar with the regular mail collection and processing practices of Katzoff & Riggs for correspondence deposited for mailing with the United States Postal Service. On April 7, 2006, I caused to be served the following document(s):

**STIPULATION AND ORDER TO MEDIATE IN LIEU OF EARLY
NEUTRAL EVALUATION AND TO EXTEND PRE-TRIAL DEADLINES**

addressed to each such addressee respectively as follows:

**Maureen M. Bryan
Scramstad & Bryan, P.C.
2020 Bonifacio Street, Suite B
Concord, CA 94520
Tel. (925) 825-3393 / Fax (925) 825-2875**

I then served the addressees in the following manner:

☒ VIA THE UNITED STATES POSTAL SERVICE by causing a true copy and/or original thereof to be placed in a sealed envelope with postage thereon fully prepaid in the designated area for outgoing mail.

☐ VIA FACSIMILE by causing such document to be served via facsimile on the parties in this action via facsimile numbers as stated on this proof of service.

☐ BY PERSONAL HAND DELIVERY on the parties in this action by causing a true copy and/or original thereof to be delivered by hand in person to the offices of the addressee(s).

☐ VIA OVERNIGHT COURIER by causing a true copy and/or original thereof to be personally delivered via the following overnight courier service: Golden State Overnight.

I declare under penalty of perjury, under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on April 7, 2006, at Emeryville, California.

SUNG E. SHIM